THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.6023 of 2006

06.04.2006

Between:

Smt.Anila Bai Mutalik, W/o.late Venkat Rao Mutalik

… Petitioner

AND

The Special Deputy Collector (Land Acquisition),
Rajiv Lift Irrigation Sangambanda Projects (RLISP),
Unit No.1, Makthal, Mahabubnagar District.
And others.

… Respondents

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ORDER:

The petitioner assails the order of the third respondent dated 04.3.2006 in Case No.26 of 2005. In exercise of the powers conferred under Section 9 of the A.P. Rights in Land & Pattadar Passbooks Act, 1971 (the Act, for brevity) and A.P. Rights in Land & Pattadar Passbooks Rules, 1989 (the Rules, for brevity) as well as Section 15(2) of A.P. (Telangana Area) Record of Rights Regulations 1358 Fasli, the third respondent dismissed the revision petition of the petitioner seeking to amend the entries in record of rights by deleting the names of respondents 5 to 9 and entering the name of the petitioner.

The dispute in this case relates to land admeasuring Acs.40.14 guntas in survey Nos.56, 65, 7, 8, 9, 11, 12, 79, 89, 103, 104, 106, 107, 68 and 112 situated at Kamath Pulmameedi Village of Maganoor Mandal in Mahabubnagar District. One Narsing Rao was the original pattadar as per the Shetwar. After death of Narsing Rao, his son Panduranga Rao Mutalic succeeded to the property. It is the case of the petitioner that her husband, Venkata Rao, was adopted by Panduranga Rao Mutalic and after death of Venkata Rao, she became the owner. The petitioner's further case is as follows. The land in survey Nos.11 and 12 was wrongly recorded in the name of Dondamma Mutalic and Pramoda Bai Mutalic (not made parties to this writ petition) as pattadars in Khasra Pahani in 1954-1955 instead of Panduranga Rao Mutalic. The land was transferred by these two ladies in favour of fifth respondent herein whose name was mutated in Record of Rights (RoR) wrongly. The fifth respondent gifted the land in survey Nos.11 and 12 under registered deed to respondents 6 to 9 herein. Aggrieved by wrong RoR, the petitioner filed revision petition under Section 9 of the Act before the Joint Collector, Mahabubnagar. After receiving the notice, respondents 5 to 9 entered appearance opposing the revision. It is their case that the land in question was never held by the husband of the petitioner, that fifth respondent herein purchased the property from Dondamma Mutalic and Pramoda Bai

Mutalic for a valuable consideration and, therefore, the respondents 5 to 9 were having exclusive rights and they were in possession of the property. On considering the case and counter case, the Joint Collector dismissed the revision petition.

Learned Counsel for the petitioner strenuously contends that Panduranga Rao Mutalic adopted the husband of the petitioner in April 1942 and, therefore, Dondamma Mutalic and Pramoda Bai Mutalic, the wife and daughter-in-law of Panduranga Rao Mutalic, have no right to transfer the property. He also contends that the document was forged based on which the entries were altered in the record of rights. After death of her husband in 1974, the petitioner is entitled to succeed to the property in survey Nos.11 and 12 and, therefore, she filed the application. He also submits that without considering all these aspects and without recording any reasons, the Joint Collector dismissed the revision petition, which is unsustainable.

Opposing the writ petition, at the stage of admission itself, learned Counsel for respondents 5 to 9 (who also filed counter affidavit) submits that when the petitioner is claiming the property based on alleged adoption, her remedy is to file a suit under Section 8(2) of the Act and the writ petition is not maintainable. Secondly, he would urge that the petitioner has no title or possession to the land in survey Nos.11 and 12 and that the land admeasuring Acs.9.08 guntas was purchased by the fifth respondent under registered sale deed dated 03.7.1987, whose name was entered in revenue records as owner/pattadar. By reason of four gift/ settlement deeds, respondents 6 to 9 have become absolute owners and their names were also entered in the revenue records. When the land admeasuring Acs.16.00 was acquired by the first respondent and the compensation was about to be paid, the petitioner filed the present writ petition with mala fide intention.

After perusing the impugned order, this Court is not able to countenance the submission of the learned Counsel for the petitioner that the third respondent did not give any reasons. A reading of the entire order would show that the Joint Collector correctly addressed the question that fell for consideration and gave appropriate reasons rejecting the application. Secondly, even according to the petitioner, her husband, who was adopted in 1942, died in 1974, whereas she filed application for revision of RoR entries in 2005. Reliance is placed on an unregistered document in support of the claim that her

husband, Venkata Rao, was adopted by Panduranga Rao Mutalic. An unregistered adoption deed without any proof cannot be accepted. Indeed, the petitioner, as observed by the third respondent, did not file any documentary evidence to show that her husband was adopted. On the contrary, Dondamma Mutalic and Pramoda Bai Mutalic were legal heirs of Panduranga Rao Mutalic, who executed a transfer deed in favour of fifth respondent for valid consideration. That is the reason why the first respondent issued notice to respondents 5 to 9 when the land was acquired. There is force in the submission of the learned Counsel for contesting respondents that the petitioner filed the application for correction of entries before the third respondent only when the land acquisition proceedings were initiated. The conduct of the petitioner in not taking any steps from 1974 and filing revision petition only in 2005 would go to show that the petitioner's case rests on false and frivolous factual foundation.

The writ petition is devoid of merits and is, therefore, dismissed. No costs.

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(**V.V.S.RAO,J**)

April 06, 2006

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